

CENTER FOR DISABILITY ACCESS  
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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**Samuel Love,**  
Plaintiff,

v.

**True Vine Hospitality LLC,** a  
California Limited Liability  
Company; and Does 1-10,  
Defendants.

**Case No.**

**Complaint For Damages And  
Injunctive Relief For Violations  
Of: American's With Disabilities  
Act; Unruh Civil Rights Act**

Plaintiff Samuel Love complains of Defendants True Vine Hospitality LLC, a California Limited Liability Company; and Does 1-10 ("Defendants"), and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. He is substantially limited in his ability to walk. He is a paraplegic who uses a wheelchair for mobility.
2. Defendant True Vine Hospitality LLC owned the real property located at or about 939 E. Hobsonway, Blythe, California, in May 2018.

1       3. Defendant True Vine Hospitality LLC owns the real property located at  
2 or about 939 E. Hobsonway, Blythe, California, currently.

3       4. Defendant True Vine Hospitality LLC owned the Budget Inn located at  
4 or about 939 E. Hobsonway, Blythe, California, in May 2018.

5       5. Defendant True Vine Hospitality LLC owns the Budget Inn (“Motel”)  
6 located at or about 939 E. Hobsonway, Blythe, California, currently.

7       6. Plaintiff does not know the true names of Defendants, their business  
8 capacities, their ownership connection to the property and business, or their  
9 relative responsibilities in causing the access violations herein complained of,  
10 and alleges a joint venture and common enterprise by all such Defendants.  
11 Plaintiff is informed and believes that each of the Defendants herein,  
12 including Does 1 through 10, inclusive, is responsible in some capacity for the  
13 events herein alleged, or is a necessary party for obtaining appropriate relief.  
14 Plaintiff will seek leave to amend when the true names, capacities,  
15 connections, and responsibilities of the Defendants and Does 1 through 10,  
16 inclusive, are ascertained.

17  
18       **JURISDICTION & VENUE:**

19       7. The Court has subject matter jurisdiction over the action pursuant to 28  
20 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
21 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

22       8. Pursuant to supplemental jurisdiction, an attendant and related cause  
23 of action, arising from the same nucleus of operative facts and arising out of  
24 the same transactions, is also brought under California’s Unruh Civil Rights  
25 Act, which act expressly incorporates the Americans with Disabilities Act.

26       9. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is  
27 founded on the fact that the real property which is the subject of this action is  
28 located in this district and that Plaintiff's cause of action arose in this district.

**FACTUAL ALLEGATIONS:**

10. Plaintiff went to the Motel in May 2018.

11. The Motel is a facility open to the public, a place of public accommodation, and a business establishment.

12. Parking spaces are one of the facilities, privileges, and advantages offered by Defendants to patrons of the Motel.

13. However, none of the parking spaces were marked and reserved for persons with disabilities during Plaintiff's visit.

14. Currently, there is not a single parking space marked and reserved for persons with disabilities.

15. On information and belief, Plaintiff alleges that the defendants once had an accessible parking space marked and reserved for persons with disabilities. Unfortunately, the parking space was allowed to fade or get paved over.

16. Defendants have failed to maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities at the Subject Property.

17. Plaintiff personally encountered this barrier.

18. This inaccessible parking lot denied the plaintiff full and equal access and caused him difficulty, discomfort, and embarrassment.

19. Transaction counters are another one of the facilities, privileges, and advantages offered by Defendants to patrons of the Motel.

20. Meanwhile, and even though plaintiff did not personally confront the barriers, the transaction counter at the Motel is more than 36 inches in height. In fact, the transaction counter is 42 inches high.

21. There is no lowered, 36 inch portion of the transaction counter at the Motel for use by persons in wheelchairs.

22. Guestrooms are also one of the facilities, privileges, and advantages

1 offered by Defendants to patrons of the Motel.

2 23. On information and belief, none of the guestrooms at the Motel are  
3 accessible to wheelchair users.

4 24. Plaintiff plans to return and patronize the Motel but is deterred from  
5 visiting until the defendants remove the barriers.

6 25. The defendants have failed to maintain in working and useable  
7 conditions those features required to provide ready access to persons with  
8 disabilities.

9 26. The barriers identified above are easily removed without much  
10 difficulty or expense. They are the types of barriers identified by the  
11 Department of Justice as presumably readily achievable to remove and, in fact,  
12 these barriers are readily achievable to remove. Moreover, there are numerous  
13 alternative accommodations that could be made to provide a greater level of  
14 access if complete removal were not achievable.

15 27. For example, there are numerous paint/stripe companies that will come  
16 and stripe a parking stall and access aisle and install proper signage on rapid  
17 notice, with very modest expense, sometimes as low as \$300 in full  
18 compliance with federal and state access standards.

19 28. A common barrier removal project is modifying transaction counters to  
20 make a portion of the counter accessible. This is a simple construction task,  
21 well within the capabilities of any general contractor. The task can be  
22 completed easily and for a modest price.

23 29. Plaintiff is deterred from returning and patronizing the Motel because  
24 of his knowledge of the barriers that exist. Plaintiff will, nonetheless, return to  
25 assess ongoing compliance with the ADA and will return to patronize the Motel  
26 as a customer once the barriers are removed.

27 30. Given the obvious and blatant nature of the violations and barriers  
28 alleged herein, the plaintiff alleges, on information and belief, that there are

1 other violations and barriers on the site that relate to his disability. Plaintiff will  
 2 amend the Complaint to provide proper notice regarding the scope of this  
 3 lawsuit once he conducts a site inspection. However, please be on notice that  
 4 the plaintiff seeks to have all barriers related to his disability remedied. See  
 5 *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff  
 6 encounters one barrier at a site, he can sue to have all barriers that relate to her  
 7 disability removed regardless of whether he personally encountered them).

8  
 9 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**  
 10 **WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all  
 11 Defendants.) (42 U.S.C. section 12101, et seq.)

12 31. Plaintiff re-pleads and incorporates by reference, as if fully set forth  
 13 again herein, the allegations contained in all prior paragraphs of this  
 14 complaint.

15 32. Under the ADA, it is an act of discrimination to fail to ensure that the  
 16 privileges, advantages, accommodations, facilities, goods and services of any  
 17 place of public accommodation is offered on a full and equal basis by anyone  
 18 who owns, leases, or operates a place of public accommodation. See 42 U.S.C.  
 19 § 12182(a). Discrimination is defined, inter alia, as follows:

- 20 a. A failure to make reasonable modifications in policies, practices,  
 21 or procedures, when such modifications are necessary to afford  
 22 goods, services, facilities, privileges, advantages, or  
 23 accommodations to individuals with disabilities, unless the  
 24 accommodation would work a fundamental alteration of those  
 25 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 26 b. A failure to remove architectural barriers where such removal is  
 27 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are  
 28 defined by reference to the ADAAG, found at 28 C.F.R., Part 36,

1 Appendix "D."

2 c. A failure to make alterations in such a manner that, to the  
3 maximum extent feasible, the altered portions of the facility are  
4 readily accessible to and usable by individuals with disabilities,  
5 including individuals who use wheelchairs or to ensure that, to the  
6 maximum extent feasible, the path of travel to the altered area and  
7 the bathrooms, telephones, and drinking fountains serving the  
8 altered area, are readily accessible to and usable by individuals  
9 with disabilities. 42 U.S.C. § 12183(a)(2).

10 33. Any business that provides parking spaces must provide a sufficient  
11 number of handicap parking spaces. 1991 Standards § 4.1.2(5). 2010  
12 Standards § 208. The required minimum number of handicap parking spaces  
13 is dependent on the total number of parking spaces available. *Id.* According to  
14 the 1991 Standards, if a parking lot has 1-25 spaces, it must have at least 1  
15 accessible parking space. 1991 Standards § 4.1.2(5)(a). And 1 in every 8 of  
16 those accessible parking spaces, but not less than 1, must be a "van" accessible  
17 parking space, *i.e.*, having an eight foot access aisle. 1991 Standards §  
18 4.1.2(5)(b). Under the 2010 Standards, a parking lot with 1-25 spaces must  
19 have at least 1 accessible space and 1 of them must be van accessible. 2010  
20 Standards § 208.2 & § 208.2.4.

21 34. Here, the failure to provide accessible parking spaces is a violation of the  
22 ADA.

23 35. In areas used for transactions where counters have cash registers and  
24 are provided for sales or distribution of goods or services to the public, at least  
25 one of each type shall have a portion of the counter which is at least 36 inches  
26 in length with a maximum height of 36 inches above the floor. 1991 Standards  
27 § 7.2(1). Under the 2010 Standards, where the approach to the sales or service  
28 counter is a parallel approach, such as in this case, there must be a portion of

1 the sales counter that is no higher than 36 inches above the floor and 36 inches  
2 in width and must extend the same depth as the rest of the sales or service  
3 counter top. 2010 Standards § 904.4 & 904.4.1.

4 36. Here, no such accessible counter has been provided in violation of the  
5 ADA.

6 37. When transient lodging is provided, i.e., motels, hotels and similar  
7 establishments, there must be a certain number of accessible sleeping rooms  
8 or suites. 1991 Standards § 9.1.2.

9 38. Here, there are no accessible guestrooms for wheelchair users at the  
10 Motel.

11 39. A public accommodation must maintain in operable working condition  
12 those features of its facilities and equipment that are required to be readily  
13 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

14 40. Here, the failure to ensure that the accessible facilities were available  
15 and ready to be used by the plaintiff is a violation of the law.

16 41. Given its location and options, plaintiff will continue to desire to  
17 patronize the Motel but he has been and will continue to be discriminated  
18 against due to the lack of accessible facilities and, therefore, seeks injunctive  
19 relief to remove the barriers.

20  
21 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**  
22 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.  
23 Code § 51-53.)

24 42. Plaintiff repleads and incorporates by reference, as if fully set forth  
25 again herein, the allegations contained in all prior paragraphs of this  
26 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,  
27 that persons with disabilities are entitled to full and equal accommodations,  
28

1 advantages, facilities, privileges, or services in all business establishment of  
2 every kind whatsoever within the jurisdiction of the State of California. Cal.  
3 Civ. Code §51(b).

4 43. The Unruh Act provides that a violation of the ADA is a violation of the  
5 Unruh Act. Cal. Civ. Code, § 51(f).

6 44. Defendants' acts and omissions, as herein alleged, have violated the  
7 Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff's  
8 rights to full and equal use of the accommodations, advantages, facilities,  
9 privileges, or services offered.

10 45. Because the violation of the Unruh Civil Rights Act resulted in difficulty,  
11 discomfort or embarrassment for the plaintiff, the defendants are also each  
12 responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-  
13 (c).)

14  
15 **PRAYER:**

16 Wherefore, Plaintiff prays that this Court award damages and provide  
17 relief as follows:

18 1. For injunctive relief, compelling Defendants to comply with the  
19 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the  
20 plaintiff is not invoking section 55 of the California Civil Code and is not  
21 seeking injunctive relief under the Disabled Persons Act at all.

22 2. Damages under the Unruh Civil Rights Act, which provides for actual  
23 damages and a statutory minimum of \$4,000.



1           3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant  
2 to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

3  
4 Dated: June 7, 2018

CENTER FOR DISABILITY ACCESS

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